

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

IN RE: FAIRFAX COUNTY CIRCUIT)
COURT SUBPOENA SERVED ON)
UNITED STATES DEPARTMENT OF)
COMMERCE EMPLOYEE IN *MONDIPA*)
BANERJEE v. JEAN-MARC BRISSON,)

Misc. Action No. 1:24-mc-20-CMH/IDD

ORDER

This matter is before the Court on the Motion to Quash (“Motion”) [Dkt. No. 2] on behalf of LaMarsha M. DeMarr, in her official capacity as an employee of the United States Department of Commerce (“DOC”). This matter can be resolved without oral argument, as such argument would not aid the decisional process. Upon consideration of the Motion and the Memorandum in Support [Dkt. No. 3], and with no response to the Motion filed, it is hereby

ORDERED that the Motion is **GRANTED**. First, the Motion is unopposed. Second, Defendant’s counsel failed to follow DOC’s regulations for disclosure of information, 15 C.F.R. §§ 15.11-15.18 (2024), promulgated pursuant to the Supreme Court’s decision in *Touhy ex rel. United States v. Ragen*, 340 U.S. 462 (1951), and to which the subpoenaing party must adhere before DOC employees, including Ms. DeMarr, can produce or disclose information in the performance of their official duties. In *Boron Oil Co. v. Downie*, 873 F.2d 67, 70 (4th Cir. 1989), the Fourth Circuit held that pursuant to the doctrine of sovereign immunity, “a federal employee may not be compelled to obey a subpoena contrary to his federal employer’s instructions under valid agency regulations.” Therefore, enforcement of this state court subpoena against Ms. DeMarr would be improper.

Accordingly, the Fairfax County Circuit Court Subpoena issued to LaMarsha M. DeMarr, a DOC employee, is hereby quashed.

ENTERED this 5th day of August .

/s/

Ivan D. Davis
United States Magistrate Judge

Alexandria, Virginia